

Bureau of Local Assessment
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(Supersedes 93-402)

SMALL COMMERCIAL EXEMPTION

**Chapter 159 §§115-117 of the Acts of 2000
(Amending G.L. Ch. 59 §5I and Ch. 60 §3A)**

This Informational Guideline Release (IGR) informs local officials about recent legislation that allows assessors to determine the eligibility of sole proprietorships and partnerships for the small commercial exemption option under property tax classification.

Topical Index Key:

Classification and Taxation by Use

Distribution:

Assessors
Selectmen/Mayors
City/Town Councils
City Solicitors/Town Counsels

(Supersedes 93-402)

SMALL COMMERCIAL EXEMPTION

**Chapter 159 §§115-117 of the Acts of 2000
(Amending G.L. Ch. 59 §5I and Ch. 60 §3A)**

SUMMARY:

This legislation allows local assessors to establish the eligibility of sole proprietorships and partnerships for the small commercial exemption, which is one of the property tax classification options available to communities when setting the annual property tax rate. Under that option, the Board of Selectmen or Mayor, with the approval of the City Council, may exempt up to 10 percent of the value of Class Three, Commercial, parcels occupied by qualifying small businesses. G.L. Ch. 59 §5I. The assessors apply the exemption to reduce the taxable valuation of the property before setting the tax rate, in the same manner the residential exemption option under G.L. Ch. 59 §5C is applied. The small commercial exemption lowers taxes on parcels occupied by small businesses and shifts those taxes to other commercial and industrial taxpayers.

Eligible small businesses are defined as those having an average annual employment of no more than ten persons at all locations during the prior calendar year. If a business is a sole proprietorship or partnership, the assessors may now determine eligibility. Previously, a sole proprietorship or partnership could not receive the exemption unless the Department of Labor and Workforce Development (formerly called the Department of Employment and Training) had certified that the business met the employment criterion in the annual list provided to local assessors. G.L. Ch. 151A §64A. In many cases, however, otherwise eligible sole proprietorships and partnerships do not appear on that list because they are not legally required to file the reports used by the Department to determine annual average employment.

The legislation also requires that the amount of any exemption applied to a parcel be shown on the tax bill. G.L. Ch. 60 §3A. In addition, eligible taxpayers will now have three months after the tax bills are mailed to apply for the exemption if no reduction was made in their assessed valuation. G.L. Ch. 59 §5I. The same deadline governs applications for residential exemptions not appearing on the tax bill.

GUIDELINES:

A. ANNUAL ADOPTION

The board of selectmen or mayor, with the approval of the city council, may decide before the tax rate is set whether or not to grant a small commercial exemption for the fiscal year. A small commercial exemption of up to 10 percent of the valuation of eligible Class Three, Commercial, parcels may be adopted. The small commercial exemption is in addition to the other local tax policy options available under the property tax classification law. It may be granted regardless of the residential factor selected and used with or without an open space discount or a residential exemption.

B. EXEMPTION QUALIFICATIONS

To receive a small commercial exemption granted for the fiscal year, a Class Three, Commercial, parcel must be occupied as of January 1 by a business with an average annual employment of no more than 10 at all locations during the previous calendar year, and have a valuation of less than \$1,000,000.

1. Occupancy

The commercial parcel must be occupied by an eligible business as of the January 1 assessment date for the fiscal year the exemption is granted. It does not have to be owned by the occupying business or any other eligible business.

If a parcel has multiple commercial occupants or tenants, all occupants must be eligible businesses. If a parcel is multiple use, such as a residential and commercial property, all occupants of the commercial portion must be eligible businesses.

2. Eligible Business

An eligible business must have an average annual employment of 10 or fewer people during the calendar year before the January 1 assessment date for the fiscal year the exemption is granted. Average employment is determined for the business as a whole, not just at the location of the parcel or other parcels within the community.

a. Certification by Department of Labor and Workforce Development

Businesses certified by the Director of the Department of Labor and Workforce Development as having had an average annual employment of ten or fewer people at all locations during the prior calendar year qualify for the exemption. The Director will provide the assessors with a list of eligible businesses each year by July 1. G.L. Ch. 151A §64A.

The list of eligible businesses is not a public record. The assessors and their staff may use the list for the sole purpose of administering the small commercial exemption. Assessors or their staff who use the list for other purposes or disclose any of the listed businesses to people outside the assessors' office may be fined \$100.

b. Determination by Assessors

If a sole proprietorship or partnership occupying the parcel on January 1 does not appear on the certified list, the assessors may determine whether it met the employment criterion for the previous calendar year. In all other cases, however, the assessors must rely exclusively on the Director's certification in determining whether a business meets the employment criterion.

Assessors will mostly be determining eligibility for sole proprietorships and partnerships that did not employ anyone other than the proprietor or a partner for more than 13 weeks during the previous calendar year. Sole proprietorships and partnerships that employed any other person for longer than that period are required to report to Division of Employment of Training, Department of Labor and Workforce Development and, therefore, they should appear on the certified list.

For purposes of consistency, assessors should calculate an average annual employment figure for the business using the same method as the Director. That method is as follows:

- (1) Determine the total number of persons employed at all locations who worked during or received pay for the payroll period that includes the 12th of each month in the calendar year. *Do not include proprietors and partners.*
- (2) Determine the total number of persons employed during each three month quarter of that calendar year.
- (3) Determine the average number of persons employed for each quarter of that year by dividing the total from step (2) by 3. *Round the result down to the nearest whole number.*
- (4) Determine the average annual employment by adding the four quarter averages from step (3) and dividing by 4. *Round the result down to the nearest whole number. This number must equal 10 or below for the business to meet the employment criterion.*

3. Valuation Limit

The Class Three, Commercial, parcel must have a valuation of less than \$1,000,000 before application of the exemption. The exemption applies to a specific parcel occupied by an eligible business, not an eligible business. Therefore, if any particular eligible business occupies more than one parcel under \$1,000,000 in value, each parcel would qualify for the exemption.

C. ASSESSED VALUATION AND TAX RATE

The assessors administer the small commercial exemption in the same manner as the residential exemption, that is, applying it before tax billing and without an application from the taxpayer. Unlike the residential exemption, however, the small commercial exemption is based on a percentage of an eligible parcel's valuation, rather than a fixed dollar amount. The assessors value all Class Three, Commercial, properties at their full and fair cash value and use the total full and fair cash value of the commercial class to compute the minimum residential factor and to determine the levy allocation under classification. If a small commercial exemption is granted, the assessors must then determine the eligible parcels, reduce their valuation by the selected exemption percentage and use the reduced taxable valuation of the commercial class to calculate the tax rate.

Any small commercial exemption granted is borne by other Class Three, Commercial, and Class Four, Industrial, real property, but not by personal property. The tax levy to be raised from commercial and industrial properties remains the same, but use of the reduced valuation in setting the tax rate results in a higher tax rate for the commercial and industrial classes than for personal property. The attachment, "Impact of Small Commercial Exemption," shows how adoption of the exemption affects the calculation of the tax rate.

D. OTHER EXEMPTIONS

The small commercial exemption may be applied to parcels that qualify for other property tax exemptions under G.L. Ch. 59 §5. There is no minimum taxable valuation as is the case with the residential exemption.

E. TAX BILLS

Tax bills for parcels that receive the small commercial exemption must show the following amounts: (1) the total full and fair cash valuation, (2) the small commercial exemption, and (3) the total taxable valuation to which the tax rate is applied. Model tax bills issued annually already reflect these requirements.

F. EXEMPTION APPLICATIONS

An application for the small commercial exemption may be filed with the assessors if the exemption is not applied to reduce the assessed valuation of a qualified parcel. The application deadline is three months after the tax bills are mailed.

The taxpayer should use the attached "Application for Small Commercial Exemption" (State Tax Form 128 -5I) to apply for the exemption. A regular abatement application (State Tax Form 128) filed within the deadline will also serve as an effective application. In that case, the assessors should then ask the taxpayer to complete State Tax Form 128-5I or otherwise provide the information needed to determine exemption eligibility.

IMPACT OF SMALL COMMERCIAL EXEMPTION

Tax Levy	\$	5,000,000
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Full and Fair Cash Valuation

Residential	\$	150,000,000	75%)	
Open Space		10,000,000	5%)	(80%)
Commercial		20,000,000	10%)	
Industrial		10,000,000	5%)	(20%)
Personal		10,000,000	5%)	
TOTAL	\$	200,000,000	100%		

Eligible Class Three Parcels

Full and Fair Cash Value	\$	5,000,000
Exemption Percentage		10%
Exempt Valuation	\$	500,000
Taxable Assessed Valuation	\$	4,500,000

EXAMPLE 1 COMMUNITY ADOPTS A RESIDENTIAL FACTOR OF 1

Tax Rate Computation Without a Small Commercial Exemption

<u>Class</u>	<u>Levy %</u>	<u>Levy</u>	<u>Tax Rate</u>
R & O	80%	\$4,000,000	\$25.00 (\$4,000,000 ÷ 160,000,000)
CIP	20%	1,000,000	25.00 (1,000,000 ÷ 40,000,000)

Tax Rate Computation With a Small Commercial Exemption

<u>Class</u>	<u>Levy %</u>	<u>Levy</u>	<u>Tax Rate</u>
R & O	80%	\$4,000,000	\$25.00 (\$4,000,000 ÷ 160,000,000)
C & I	15%	750,000	25.42 (750,000 ÷ 29,500,000)
P	5%	250,000	25.00 (50,000 ÷ 10,000,000)

Tax Impact on Eligible and Non-eligible Parcel Full and Fair Cash Valuation \$500,000

	<u>Without Exemption</u>	<u>With Exemption</u>
Eligible	\$12,500 (\$500,000 x \$25/1000)	\$11,439 (\$450,000 x \$25.42/1000)
Non-eligible	\$12,500 (\$500,000 x \$25/1000)	\$12,710 (\$500,000 x \$25.42/1000)

EXAMPLE 2
COMMUNITY ADOPTS A SHIFT OF 150% ON CIP
ADOPTS A RESIDENTIAL FACTOR OF .875

Tax Rate Computation **Without** a Small Commercial Exemption

<u>Class</u>	<u>Levy %</u>	<u>Levy</u>		<u>Tax Rate</u>
R & O	70%	\$3,500,000	\$21.88	$(\$3,500,000 \div 160,000,000)$
CIP	30%	1,500,000	37.50	$(1,500,000 \div 40,000,000)$

Tax Rate Computation **With** a Small Commercial Exemption

<u>Class</u>	<u>Levy %</u>	<u>Levy</u>		<u>Tax Rate</u>
R & O	70.0%	\$3,500,000	\$21.88	$(\$3,500,000 \div 160,000,000)$
C & I	22.5%	1,125,000	38.14	$(1,125,000 \div 29,500,000)$
P	7.5%	375,000	37.50	$(375,000 \div 10,000,000)$

Tax Impact on Eligible and Non-eligible Parcel
Full and Fair Cash Valuation \$500,000

	<u>Without Exemption</u>	<u>With Exemption</u>
Eligible	\$18,750 $(\$500,000 \times 37.50/1000)$	\$17,163 $(\$450,000 \times 38.14/1000)$
Non-eligible	\$18,750 $(\$500,000 \times 37.50/1000)$	\$19,070 $(\$500,000 \times 38.14/1000)$

Date Received
Application No.
Parcel Id.

Name of City or Town

APPLICATION FOR SMALL COMMERCIAL EXEMPTION
FISCAL YEAR _____
General Laws Chapter 59 §5I

THIS APPLICATION IS NOT OPEN TO PUBLIC INSPECTION
(See General Laws Chapter 59 §60)

Return to: Board of Assessors

Must be filed with assessors within 3 months after actual
(**not** preliminary) tax bills are mailed for fiscal year.

INSTRUCTIONS: Complete **BOTH** sides of application. Please print or type.

A. TAXPAYER INFORMATION. Complete this section fully.

Name(s) of assessed owner: _____
Name(s) and status of applicant (if other than assessed owner) _____
☐ Subsequent owner (aquired title after January 1) on _____
☐ Administrator/executor. ☐ Mortgagee.
☐ Lessee. ☐ Other. Specify. _____
Mailing address _____ Telephone No. () _____

No. Street City/Town Zip Code

B. PROPERTY IDENTIFICATION. Complete using information as it appears on tax bill.

Tax bill no. _____ Assessed valuation \$ _____
Location (Street Address) _____
Parcel identification no. (map-block-lot) _____ Land area _____

DISPOSITION OF APPLICATION (ASSESSORS' USE ONLY)

Occupancy	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	Assessed tax	\$ _____
Employment	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	Exempted tax	\$ _____
Valuation	<input type="checkbox"/>	DEEMED DENIED	<input type="checkbox"/>	Adjusted tax	\$ _____

Board of Assessors

Date voted/Deemed denied _____

Certificate No. _____

Date Certificate/Notice sent _____

Date: _____

FILING THIS APPLICATION DOES NOT STAY THE COLLECTION OF YOUR TAXES.
TO AVOID LOSS OF APPEAL RIGHTS OR ADDITION OF INTEREST AND COLLECTION CHARGES, THE TAX SHOULD BE PAID AS ASSESSED.

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

C. OCCUPANCY. List in the schedule below all occupants of property (including applicant) on January 1. An inspection or documentation may be required to verify occupancy.

OCCUPANCY ON JANUARY 1, _____

Floor	Occupant	Use of Space

Continue list on attachment in same format as necessary.

Are any of the occupants doing business as a sole proprietorship or partnership?

Yes ☐ No ☐

IF NO, GO ON TO SECTION E

D. PERSONS EMPLOYED DURING PRECEDING CALENDAR YEAR. For each occupant doing business as a sole proprietorship or partnership, list in the schedule below the number of persons employed at all locations who worked during or received pay for the payroll period that includes the 12th of each month during the preceding calendar year. Do not include proprietors or partners. Copies of payroll or other records may be required to verify employment.

MONTHLY PAYROLLS DURING CALENDAR YEAR _____

Business Name _____				Business Name _____			
1/12	4/12	7/12	10/12	1/12	4/12	7/12	10/12
2/12	5/12	8/12	11/12	2/12	5/12	8/12	11/12
3/12	6/12	9/12	12/12	3/12	6/12	9/12	12/12

Continue schedules on attachment in same format as necessary.

E. SIGNATURE. Sign here to complete application.

Subscribed this _____ day of _____, _____	Under penalties of perjury.
Signature of applicant _____	
If not an individual, signature of authorized officer _____	
_____ Title	
()	
(print or type) Name _____	Address _____ Telephone _____
If signed by agent, attach copy of written authorization to sign on behalf of taxpayer.	

INFORMATION ABOUT SMALL COMMERCIAL EXEMPTION

WHO MAY FILE AN APPLICATION. You may file an application if your property meets all of the qualifications below on January 1 and any small commercial exemption locally adopted for the fiscal year was not applied to your actual tax bill. Your property must:

- Be Class Three, Commercial, property.
- Be occupied solely by businesses with an average annual employment of 10 or under at all locations during the prior calendar year. Assessors may determine annual employment for a sole proprietorship or partnership. For all other businesses, they must rely solely on the determination of the Director of Labor and Workplace Development.
- Have an assessed valuation of \$1,000,000 or less before the application of the exemption.

WHEN AND WHERE APPLICATION MUST BE FILED. Your application must be filed with the board of assessors within 3 months after the actual bills were mailed for the fiscal year, whichever is later. THIS DEADLINE CANNOT BE EXTENDED OR WAIVED BY THE ASSESSORS FOR ANY REASON. IF YOUR APPLICATION IS NOT TIMELY FILED, YOU LOSE ALL RIGHTS TO AN EXEMPTION AND THE ASSESSORS CANNOT BY LAW GRANT YOU ONE. AN APPLICATION IS FILED WHEN RECEIVED BY THE ASSESSORS.

PAYMENT OF TAX. Filing an application does not stay the collection of your taxes. In some cases, you must pay the tax when due to appeal the assessors' disposition of your application. Failure to pay the tax when due may also subject you to interest charges and collection action. To avoid any loss of rights or additional charges, you should pay the tax as assessed. If an exemption is granted and you have already paid the entire year's tax as exempted, you will receive a refund of any overpayment.

ASSESSORS DISPOSITION. Upon applying for an exemption, you may be required to provide the assessors with further information and supporting documentation to establish your eligibility. The assessors have 3 months from the date your application is filed to act on it unless you agree in writing before that period expires to extend it for a specific time. If the assessors do not act on your application within the original or extended period, it is deemed denied. You will be notified in writing whether an exemption has been granted or denied.

APPEAL. You may appeal the disposition of your application. The disposition notice will provide you with further information about the appeal procedure and deadline.

